IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Crl.Rev.Pet.No. 2560 of 2007()

CRA.329/2006 of ADDL.SESSIONS JUDGE(ADHOC-II), ERNAKULAM
CC.1094/2001 of JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM

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REVN. PETITIONER: APPELLANT/ACCUSED

PRAKASH, AGED 42 YEARS,
S/O.SREEDHARAN, THOTTAPPILLIL HOUSE,
BRAMMAMANGALAM KARA, CHEMBU, VAIKOM.

BY ADV. SRI.P.B.ASOKAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED
BY SUB INSPECTOR OF POLICE, MULANTHURUTHY.

BY PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl.R.P. No. 2560 OF 2007

Dated this the 10th day of July, 2007

O R D E R

The revision petitioner was concurrently convicted by the courts below for an offence punishable under section 325 IPC. The lower appellate court, in modification to sentence imposed by the trial court, directed the revision petitioner to undergo simple imprisonment for two months and to pay a sum of Rs.7,000/- to PW1, the injured, by way of compensation under section 357(3) Cr.P.C. and on default, to undergo simple imprisonment for three months. The revision petitioner challenges the conviction entered and the sentence passed as above.

2. Eventhough the learned counsel appearing for the revision petitioner assailed the findings recorded by the courts below, those findings have been recorded after an evaluation of the oral and documentary evidence in the case. The trial court, in particular, had believed the prosecution witnesses to record the conviction entered against the revision petitioner. The lower appellate court has concurred with the conclusion reached by the trial court. In the absence of any infirmity in the appreciation of evidence by the courts below, the revisional court will be loathe to interfere with the findings recorded by the courts below which are the final tribunal's facts. The conviction was,

therefore, rightly entered against the revision petitioner.

3. Coming to the question of sentence, I am of the view that in the facts and circumstances of the case, penal servitude by way of incarceration may not be necessary and ends of justice will be adequate by directing him to suffer imprisonment till the rising of the court and to pay the enhanced amount by way of compensation to PW1. Accordingly, in modification of the sentence imposed on the revision petitioner by the lower appellate court for his conviction under section 325 IPC, the revision petitioner is sentenced to imprisonment till the rising of the court and to pay a sum of Rs.20,000/-(Rupees twenty thousand only) by way of compensation to PW1, the injured, under section 357(3) Cr.P.C. If the compensation amount is not paid within two months from today, the revision petitioner shall undergo simple imprisonment for three months.

This revision petition is disposed of as above.

(V. RAMKUMAR, JUDGE)

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